

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

THOMAS GENE MAYFIELD, JR.,  
Petitioner,  
vs.  
L S McEWEN, et al.,  
Respondents.

CASE NO. 10cv2234-LAB (WVG)

**ORDER ADOPTING REPORT  
AND RECOMMENDATION; AND**

**ORDER DENYING PETITION FOR  
WRIT OF HABEAS CORPUS**

Petitioner, a prisoner in state custody, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, seeking relief from denial of parole. This matter was referred to Magistrate Judge William Gallo for report and recommendation. On June 23, 2011, Judge Gallo issued his report and recommendation (the "R&R"), recommending that the petition be denied. Objections were due July 22, 2011, but Petitioner filed none and did not seek additional time within which to do so.

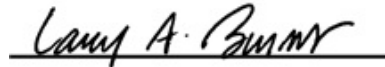
A district court has jurisdiction to review a Magistrate Judge's report and recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The Court reviews de novo those portions of the R&R to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). "The statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*,

1 but not otherwise." *Id.* When no objections are filed, the Court need not review the report  
2 and recommendation de novo. *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005).  
3 See also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1225-26 & n.5 (D. Ariz. 2003)  
4 (applying *Reyna-Tapia* to habeas review).

5 The Court has reviewed the R&R, finds it to be correct, and **ADOPTS** it. In particular,  
6 the Supreme Court's recent decision in *Swarthout v. Cooke*, 131 S.Ct. 859 (2011) makes  
7 clear the petition cannot succeed. The petition is **DENIED**.

8  
9 **IT IS SO ORDERED.**

10 DATED: September 15, 2011

11 

12 **HONORABLE LARRY ALAN BURNS**  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28